

**IN THE CIRCUIT COURT
ST. LOUIS COUNTY
STATE OF MISSOURI**

HAROLD O. HOLMES

Plaintiff,

v.

**GC SERVICES LIMITED
PARTNERSHIP-DELAWARE**

Serve at:

CT Corporation System
120 South Central Avenue
Clayton, Missouri 63105

Defendant.

Cause No.

Division

JURY TRIAL DEMANDED**PETITION**

COMES NOW Plaintiff, Harold O. Holmes, and for his Petition states as follows:

INTRODUCTION

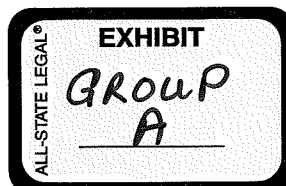
1. This is an action for statutory damages brought by an individual consumer for violations of the Fair Debt Collections Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

2. Plaintiff demands a trial by jury on all issues so triable.

JURISDICTION

3. This Court has jurisdiction of the FDCPA claim under 15 U.S.C. § 1692k(d), as Defendant's collection activity was directed to Plaintiff in St. Louis County, Missouri. Venue is also proper in St. Louis County, Missouri for this reason.

4. The circuit court has jurisdiction of all claims under Section 478.070 RSMo.



PARTIES

5. Plaintiff is a natural person currently residing in St. Louis County, Missouri. Plaintiff is a “consumer” within the meaning of the FDCPA.

6. The alleged debts Plaintiff owes arise out of consumer, family, and household transactions. Specifically, the alleged debts originated from a personal credit card Plaintiff used.

7. Defendant GC Services Limited Partnership is a foreign limited partnership with its principal place of business in Houston, Texas.

8. The principal business purpose of Defendant is the collection of debts in Missouri and nationwide, and Defendant regularly attempts to collect debts alleged to be due another.

9. Defendant is engaged in the collection of debts from consumers using the mail and telephone. Defendant is a “debt collector” as defined by the FDCPA. 15 U.S.C. § 1692a(6).

FACTS

10. Defendant’s collection activity of which Plaintiff complains occurred within the previous twelve (12) months.

11. Defendant sent Plaintiff a collection letter dated July 27, 2015 (“the letter”).

12. Plaintiff received the letter on or about August 4, 2015.

13. The letter requested payment of an alleged credit card debt.

14. The letter stated, as required by 15 U.S.C. § 1692g, that Plaintiff had thirty days from the date he received it to dispute the validity of the debt and request verification thereof (his “dispute period”).

15. Plaintiff, concerned by the fact that a collection agency was now pursuing him for the alleged debt, hired an attorney to represent him with respect to the alleged debt.

16. Plaintiff called Defendant soon after receiving the letter and within his dispute period to obtain more information about the alleged debt and inform it of his attorney representation ("the call").

17. During the call, Defendant stated that Plaintiff must pay at least a portion of the alleged debt by August 17, 2015.

18. This deadline fell within and was inconsistent with Plaintiff's dispute period.

19. Defendant's conduct overshadowed Plaintiff's dispute and verification rights.

20. Defendant's conduct caused Plaintiff to believe that he could not exercise his rights or that such an exercise would not be honored, and that he had to pay the alleged debts within his dispute period.

21. Plaintiff never entered into any agreement whereby he consented to arbitrate disputes between himself and Defendant.

22. Defendant's collection attempts have caused Plaintiff to incur actual damages including but not limited to anxiety, frustration, and worry.

COUNT I: VIOLATION OF THE FDCPA

23. Plaintiff re-alleges and incorporates by reference all of the above paragraphs.

24. In its attempts to collect the alleged debts from Plaintiff, Defendant has committed violations of the FDCPA, 15 U.S.C. § 1692 et seq., including, but not limited to, the following:

- a. Overshadowing Plaintiff's dispute and verification rights, 15 U.S.C. § 1692g; and
- b. Engaging in harassing, abusive, unfair, and unconscionable conduct in the collection of a debt, 15 U.S.C. § 1692d-f.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendant for:

- A. Judgment that Defendant's conduct violated the FDCPA;
- B. Actual damages;
- C. Statutory damages, costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692(k); and
- D. For such other relief as the Court may deem just and proper.

VOYTAS & COMPANY

/s/ Richard A. Voytas, Jr.

RICHARD A. VOYTAS, #52046
ALEXANDER J. CORNWELL, #64793
Voytas & Company, LLC
1 North Taylor Ave.
St. Louis, Missouri 63108
Phone: (314) 932-1068
rickvoytas@gmail.com

15SL-CC02785

Electronically Filed - St Louis County - August 17, 2015 - 01:41 PM

In the
CIRCUIT COURT
Of St. Louis County, Missouri



For File Stamp Only

HAROLD O. HOLMES
 Plaintiff/Petitioner

August 17, 2015
 Date

vs.

GC SERVICES LIMITED PARTNERSHIP-DE
 Defendant/Respondent

Case Number

Division

REQUEST FOR APPOINTMENT OF PROCESS SERVER

Comes now PLAINTIFF, pursuant

Requesting Party

to Local Rule 28, and at his/her/its own risk requests the appointment of the Circuit Clerk of

Services Rendered : Mark Wilcox, Laurence Roth, Corey Stage, Bridget Desimone, Jaclyn Baker
 Name of Process Server Address Telephone

220 West Lockwood, Suite 104, St. Louis, MO 63119: bridget@lgr-sri.com
 Name of Process Server Address or in the Alternative Telephone

Name of Process Server Address or in the Alternative Telephone

Natural person(s) of lawful age to serve the summons and petition in this cause on the below named parties. This appointment as special process server does not include the authorization to carry a concealed weapon in the performance thereof.

SERVE:

CT Corporation System

Name
120 South Central Avenue
 Address
Clayton, Missouri 63105
 City/State/Zip

SERVE:

Name

Address

City/State/Zip

SERVE:

Name

Address

City/State/Zip

SERVE:

Name

Address

City/State/Zip

Appointed as requested:

JOAN M. GILMER, Circuit Clerk

By _____
 Deputy Clerk

Date

/s/ Richard A. Voytas, Jr.

Attorney/Plaintiff/Petitioner
52046

Bar No.

1 N. Taylor Ave., St. Louis, MO 6310

Address
(314) 932-1068

Phone No.

Fax No.



242937

STATE OF MISSOURI
County of St. Louis
21st Judicial
Associate

Docket number 15SI-CC02785

Electronically Filed - St. Louis County - August 25, 2015 - 02:49 PM

Harold O Holmes

AFFIDAVIT OF SERVICE

Plaintiff,
vs.

GC Services Limited partnership-Delaware,

Defendant,
_____ /

I, Lawrence G. Roth affirm and depose that I am a Process Server 18 years of age or over who is not a party to the action.

I hereby certify and return that on 08/20/2015 at 12:55 PM, I served copies of the SUMMONS AND PETITION CIRCUIT Personally upon **GC Services Limited partnership-Delaware** as articulated below.

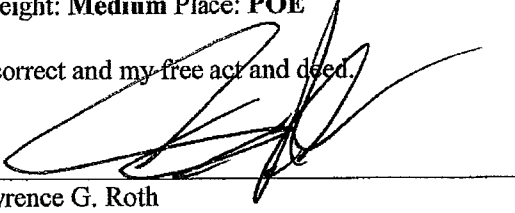
By delivering a copy to **Andrea Cairns** personally; thereof, an authorized person to accept service of process.

Said service was effected at: **Ct Corporation System 120 South Central Ave, Clayton, MO63105.**

Deponent describes the individual served to the best of deponent's ability at the time and circumstances of service as follows:

Sex: Female Race: White Hair: Brown Height: Medium Weight: Medium Place: POE

I certify that the foregoing statements made by me are true, correct and my free act and deed.




Lawrence G. Roth

The foregoing affidavit sworn and subscribed before me today, August 24, 2015

Bridget Desimone

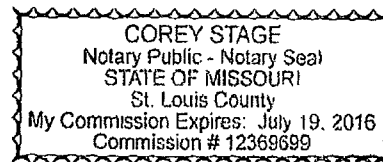
Jaclyn S. Baker



Corey Stage

JobNo. 242937

Fee For Service: \$40.00






IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: GLORIA CLARK RENO	Case Number: 15SL-CC02785
Plaintiff/Petitioner: HAROLD O HOLMES	Plaintiff's/Petitioner's Attorney/Address RICHARD ANTHONY VOYTAS Jr. 1 NORTH TAYLOR AVENUE SAINT LOUIS, MO 63108
Defendant/Respondent: GC SERVICES LIMITED PARTNERSHIP- DELAWARE	Court Address: ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105
Nature of Suit: CC Other Tort	(Date File Stamp)

Summons in Civil Case

The State of Missouri to: GC SERVICES LIMITED PARTNERSHIP-DELAWARE
Alias:
CT CORPORATION SYSTEM
120 SOUTH CENTRAL AVENUE
CLAYTON, MO 63105

COURT SEAL OF

 ST. LOUIS COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

SPECIAL NEEDS: If you have special needs addressed by the Americans With Disabilities Act, please notify the Office of the Circuit Clerk at 314-615-8029, FAX 314-615-8739 or TTY at 314-615-4567, at least three business days in advance of the court proceeding.

18-AUG-2015
Date

Jean P. Shilms
Clerk

Further Information:
TLC

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.

☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with a person of the Defendant's/Respondent's family over the age of 15 years.

☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).

☐ other _____

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

(Seal) Subscribed and sworn to before me on _____ (date).

My commission expires: _____ (Date) _____ (Notary Public)

Sheriff's Fees, if applicable

Summons	\$ _____
Non Est	\$ _____
Sheriff's Deputy Salary	\$ _____
Supplemental Surcharge	\$ 10.00
Mileage	\$ _____ (_____ miles @ \$ _____ per mile)
Total	\$ _____

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.



242937

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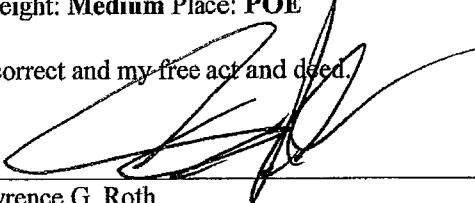
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Lawrence G. Roth

The foregoing affidavit sworn and subscribed before me today, August 24, 2015

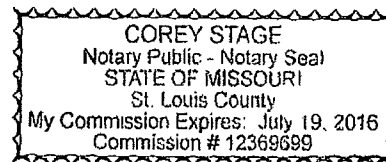
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- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to

_____ (name) _____ (title).

☐ other _____

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on _____ (date).

My commission expires: _____

Date

Notary Public

Sheriff's Fees, if applicable

Summons \$ _____

Non Est \$ _____

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00

Mileage \$ _____ (_____ miles @ \$_____ per mile)

Total \$ _____

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Sheriff's Fees, if applicable

Summons	\$ _____
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Sheriff's Deputy Salary	
Supplemental Surcharge	\$ 10.00
Mileage	\$ _____ (_____ miles @ \$. _____ per mile)
Total	\$ _____

A copy of the summons and a copy of the petition must be served on **each** Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI

Twenty First Judicial Circuit

NOTICE OF ALTERNATIVE DISPUTE RESOLUTION SERVICES

Purpose of Notice

As a party to a lawsuit in this court, you have the right to have a judge or jury decide your case. However, most lawsuits are settled by the parties before a trial takes place. This is often true even when the parties initially believe that settlement is not possible. A settlement reduces the expense and inconvenience of litigation. It also eliminates any uncertainty about the results of a trial.

Alternative dispute resolution services and procedures are available that may help the parties settle their lawsuit faster and at less cost. Often such services are most effective in reducing costs if used early in the course of a lawsuit. Your attorney can aid you in deciding whether and when such services would be helpful in your case.

Your Rights and Obligations in Court Are Not Affected By This Notice

You may decide to use an alternative dispute resolution procedure if the other parties to your case agree to do so. In some circumstances, a judge of this court may refer your case to an alternative dispute resolution procedure described below. These procedures are not a substitute for the services of a lawyer and consultation with a lawyer is recommended. Because you are a party to a lawsuit, you have obligations and deadlines which must be followed whether you use an alternative dispute resolution procedure or not. **IF YOU HAVE BEEN SERVED WITH A PETITION, YOU MUST FILE A RESPONSE ON TIME TO AVOID THE RISK OF DEFAULT JUDGMENT, WHETHER OR NOT YOU CHOOSE TO PURSUE AN ALTERNATIVE DISPUTE RESOLUTION PROCEDURE.**

Alternative Dispute Resolution Procedures

There are several procedures designed to help parties settle lawsuits. Most of these procedures involve the services of a neutral third party, often referred to as the "neutral," who is trained in dispute resolution and is not partial to any party. The services are provided by individuals and organizations who may charge a fee for this help. Some of the recognized alternative dispute resolutions procedures are:

(1) Advisory Arbitration: A procedure in which a neutral person or persons (typically one person or a panel of three persons) hears both sides and decides the case. The arbitrator's decision is not binding and simply serves to guide the parties in trying to settle their lawsuit. An arbitration is typically less formal than a trial, is usually shorter, and may be conducted in a private setting at a time mutually agreeable to the parties. The parties, by agreement, may select the arbitrator(s) and determine the rules under which the arbitration will be conducted.

(2) Mediation: A process in which a neutral third party facilitates communication between the parties to promote settlement. An effective mediator may offer solutions that have not been considered by the parties or their lawyers. A mediator may not impose his or her own judgment on the issues for that of the parties.

CCADM73

(3) Early Neutral Evaluation (“ENE”): A process designed to bring the parties to the litigation and their counsel together in the early pretrial period to present case summaries before and receive a non-binding assessment from an experienced neutral evaluator. The objective is to promote early and meaningful communication concerning disputes, enabling parties to plan their cases effectively and assess realistically the relative strengths and weaknesses of their positions. While this confidential environment provides an opportunity to negotiate a resolution, immediate settlement is not the primary purpose of this process.

(4) Mini-Trial: A process in which each party and their counsel present their case before a selected representative for each party and a neutral third party, to define the issues and develop a basis for realistic settlement negotiations. The neutral third party may issue an advisory opinion regarding the merits of the case. The advisory opinion is not binding.

(5) Summary Jury Trial: A summary jury trial is a non binding, informal settlement process in which jurors hear abbreviated case presentations. A judge or neutral presides over the hearing, but there are no witnesses and the rules of evidence are relaxed. After the “trial”, the jurors retire to deliberate and then deliver an advisory verdict. The verdict then becomes the starting point for settlement negotiations among the parties.

Selecting an Alternative Dispute Resolution Procedure and a Neutral

If the parties agree to use an alternative dispute resolution procedure, they must decide what type of procedure to use and the identity of the neutral. As a public service, the St. Louis County Circuit Clerk maintains a list of persons who are available to serve as neutrals. The list contains the names of individuals who have met qualifications established by the Missouri Supreme Court and have asked to be on the list. The Circuit Clerk also has Neutral Qualifications Forms on file. These forms have been submitted by the neutrals on the list and provide information on their background and expertise. They also indicate the types of alternative dispute resolution services each neutral provides.

A copy of the list may be obtained by request in person and in writing to: Circuit Clerk, Office of Dispute Resolution Services, 7900 Carondelet Avenue, 5th Floor, Clayton, Missouri 63105. The Neutral Qualifications Forms will also be made available for inspection upon request to the Circuit Clerk.

The List and Neutral Qualification Forms are provided only as a convenience to the parties in selecting a neutral. The court cannot advise you on legal matters and can only provide you with the List and Forms. You should ask your lawyer for further information.